

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

In re:)	Case No.: 11-10227
)	
CLARENCE DAVID DILLINGHAM)	Chapter: 13
)	
)	
)	
)	
Debtor(s))	
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MOTION FOR SANCTIONS

NOW COMES JUDY M. DILLINGHAM, creditor herein, by and through the undersigned counsel, pursuant to Rule 9011 of the Federal Rules of Bankruptcy Procedure, and moves the Court sanction the Debtor C. David Dillingham only for presenting to the Court the Petition and Plan herein, which pleadings contained false statements of fact, known by Debtor to be false, for the improper purposes of harassment, unnecessary delay, and needless increase in the cost of litigation to Ms. Dillingham. In support of this motion, Ms. Dillingham shows the Court the following:

1. The Debtor's Petition, filed on March 10, 2011, was grossly incomplete and plainly false in many respects. Debtor deliberately omitted from the Petition eight judgments and domestic support orders obtain by Judy Dillingham ("Judy Judgments") against Mr. Dillingham totaling \$193,213.98. (See Ms. Dillingham's Amended Proof of Claim herein.) All of these debts were well known to the Debtor when he signed the Petition. The Petition also listed debts totaling \$14,850,061.33 when in fact the actual amounts due were no more than \$800,000.

2. On March 14, 2011, Ms. Dillingham's counsel met with the Debtor's counsel and explained the defects in the Petition. Thereafter, the Debtor's counsel informed Ms Dillingham's counsel that she had advised the Debtor to correct the Petition, and that the corrected Petition would be forthcoming. However, the Debtor never corrected the Petition, and voluntarily dismissed the case on May 9, 2011.

3. The Petition was filed for the purpose of improperly delaying the imminent collection of the Judy Judgments, execution sales on which were scheduled for March 3 and March 30, 2011.

4. The Debtor filed the Petition to obtain the automatic stay of the March 2011 collections and the enforcement of the domestic support obligation, yet he never intended to resolve these debts in bankruptcy. Further, prior to filing of the Petition, the Debtor had already settled the majority of his debts to his other legitimate creditors besides Ms. Dillingham. The intent of the Petition was not to create an orderly process for payment of the Debtor's creditors; rather, the intent of the Petition was to delay collection by one debtor, Ms. Dillingham, so that the Debtor could transfer his assets to his friends and family. (See, e.g., UCC Financing Statement No. 20110023987E, filed March 22, 2011.)

5. The Petition was the most recent in a long line of frivolous petitions, lawsuits, and appeals filed by the Debtor since 2004, all of which were calculated to cause, and did in fact cause, unreasonable delay and needless increase in the costs of the litigation to Ms. Dillingham.

6. Ms. Dillingham has incurred costs and attorneys' fees as a result of the filing of the frivolous Petition, including \$4,000 in attorneys' fees, \$411.34 in state court costs, and \$275.00 in bankruptcy court costs, totaling \$4,686.34. Ms. Dillingham requests the Court enter this amount as a sanction for filing of the Petition and the Plan.

WHEREFORE, Ms. Dillingham prays the Court enter an order sanctioning the Debtor for the filing of the Petition in the amount of the fees and costs incurred by Ms. Dillingham in this matter, or such other sanction as the Court may deem just and proper.

This the 18th day of May, 2011.

s/ Robert J. Deutsch
Robert J. Deutsch (NC Bar #5577)

s/ Tikkun A.S. Gottschalk
Tikkun A.S. Gottschalk (NC Bar #33945)

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CERTIFICATE OF SERVICE

By the signature above, I, Tikkun A.S. Gottschalk, hereby certify that, on May 18, 2011, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such to the following:

Susan M. Dotson-Smith, Esq.
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David G. Gray, Trustee
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Copy mailed to:

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